

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SHENG-WEN CHENG ALSO KNOWN AS  
JUSTIN CHENG,

Plaintiff,

-against-

EUGENE AUSTIN ALSO KNOWN AS HUGH  
AUSTIN,

Defendant.

24-CV-8100 (JPC) (JW)

ORDER OF SERVICE

JENNIFER E. WILLIS, United States Magistrate Judge:

Plaintiff, who currently is incarcerated in Rochester, Minnesota, brings this action *pro se* under the Court’s diversity jurisdiction. By order dated February 24, 2025, the Court granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees.<sup>1</sup>

**DISCUSSION**

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service with assistance in effecting service.<sup>2</sup> *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

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<sup>1</sup> Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

<sup>2</sup> Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that a summons be issued. The Court therefore extends the time to serve until 90 days after the date the summons issues.

To allow Plaintiff to effect service on Defendant through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for Defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendant.

If the complaint is not served within 90 days after the date the summons is issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

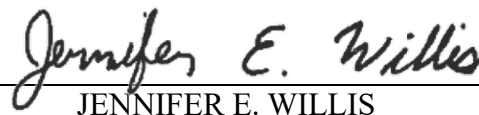
#### CONCLUSION

The Clerk of Court is instructed to issue a summons for Eugene Austin, also known as Hugh Austin, complete the USM-285 form with the address for Defendant, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is directed to mail an information package to Plaintiff.

SO ORDERED.

Dated: 3/13/2025  
New York, New York

A handwritten signature in black ink, reading "Jennifer E. Willis", is written over a horizontal line.

JENNIFER E. WILLIS  
United States Magistrate Judge

**SERVICE ADDRESS FOR DEFENDANT**

Eugene Austin, also known as Hugh Austin  
No. 66824-510  
Metropolitan Detention Center  
P.O. Box 329002  
Brooklyn, New York 11232